

1 AN ACT concerning financial institutions.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Metropolitan Transit Authority Act is  
5 amended by changing Section 25 as follows:

6 (70 ILCS 3605/25) (from Ch. 111 2/3, par. 325)

7 Sec. 25. All funds deposited by the treasurer in any  
8 bank, savings bank, or savings and loan association shall be  
9 placed in the name of the Authority and shall be withdrawn or  
10 paid out only by check or draft upon the bank, savings bank,  
11 or savings and loan association, signed by the treasurer or  
12 an assistant treasurer and countersigned by the chairman of  
13 the Board or a vice-chairman of the Board. The Board may  
14 designate any of its members or any officer or employee of  
15 the Authority to affix the signature of the chairman and  
16 another to affix the signature of the treasurer to any check  
17 or draft for payment of salaries or wages and for the payment  
18 of any other obligation of not more than \$2500.00.

19 No bank, savings bank, or savings and loan association  
20 shall receive public funds as permitted by this Section,  
21 unless it has complied with the requirements established  
22 pursuant to Section 6 of "An Act relating to certain  
23 investments of public funds by public agencies", approved  
24 July 23, 1943, as now or hereafter amended.

25 (Source: P.A. 83-541.)

26 Section 10. The Illinois Banking Act is amended by  
27 changing Sections 5, 18, 46, and 48.4 as follows:

28 (205 ILCS 5/5) (from Ch. 17, par. 311)

29 Sec. 5. General corporate powers. A bank organized

1 under this Act or subject hereto shall be a body corporate  
2 and politic and shall, without specific mention thereof in  
3 the charter, have all the powers conferred by this Act and  
4 the following additional general corporate powers:

5 (1) To sue and be sued, complain, and defend in its  
6 corporate name.

7 (2) To have a corporate seal, which may be altered at  
8 pleasure, and to use the same by causing it or a facsimile  
9 thereof to be impressed or affixed or in any manner  
10 reproduced, provided that the affixing of a corporate seal to  
11 an instrument shall not give the instrument additional force  
12 or effect, or change the construction thereof, and the use of  
13 a corporate seal is not mandatory.

14 (3) To make, alter, amend, and repeal bylaws, not  
15 inconsistent with its charter or with law, for the  
16 administration of the affairs of the bank. If this Act does  
17 not provide specific guidance in matters of corporate  
18 governance, the provisions of the Business Corporation Act of  
19 1983 may be used if so provided in the bylaws.

20 (4) To elect or appoint and remove officers and agents  
21 of the bank and define their duties and fix their  
22 compensation.

23 (5) To adopt and operate reasonable bonus plans,  
24 profit-sharing plans, stock-bonus plans, stock-option plans,  
25 pension plans and similar incentive plans for its directors,  
26 officers and employees.

27 (5.1) To manage, operate and administer a fund for the  
28 investment of funds by a public agency or agencies, including  
29 any unit of local government or school district, or any  
30 person. The fund for a public agency shall invest in the  
31 same type of investments and be subject to the same  
32 limitations provided for the investment of public funds. The  
33 fund for public agencies shall maintain a separate ledger  
34 showing the amount of investment for each public agency in

1 the fund. "Public funds" and "public agency" as used in this  
2 Section shall have the meanings ascribed to them in Section 1  
3 of the Public Funds Investment Act.

4 (6) To make reasonable donations for the public welfare  
5 or for charitable, scientific, religious or educational  
6 purposes.

7 (7) To borrow or incur an obligation; and to pledge its  
8 assets:

9 (a) to secure its borrowings, its lease of personal  
10 or real property or its other nondeposit obligations;

11 (b) to enable it to act as agent for the sale of  
12 obligations of the United States;

13 (c) to secure deposits of public money of the  
14 United States, whenever required by the laws of the  
15 United States, including without being limited to,  
16 revenues and funds the deposit of which is subject to the  
17 control or regulation of the United States or any of its  
18 officers, agents, or employees and Postal Savings funds;

19 (d) to secure deposits of public money of any state  
20 or of any political corporation or subdivision thereof  
21 including, without being limited to, revenues and funds  
22 the deposit of which is subject to the control or  
23 regulation of any state or of any political corporation  
24 or subdivisions thereof or of any of their officers,  
25 agents, or employees;

26 (e) to secure deposits of money whenever required  
27 by the National Bankruptcy Act;

28 (f) (blank); and

29 (g) to secure trust funds commingled with the  
30 bank's funds, whether deposited by the bank or an  
31 affiliate of the bank, pursuant to Section 2-8 of the  
32 Corporate Fiduciary Act.

33 (8) To own, possess, and carry as assets all or part of  
34 the real estate necessary in or with which to do its banking

1 business, either directly or indirectly through the ownership  
2 of all or part of the capital stock, shares or interests in  
3 any corporation, association, trust engaged in holding any  
4 part or parts or all of the bank premises, engaged in such  
5 business and in conducting a safe deposit business in the  
6 premises or part of them, or engaged in any activity that the  
7 bank is permitted to conduct in a subsidiary pursuant to  
8 paragraph (12) of this Section 5.

9 (9) To own, possess, and carry as assets other real  
10 estate to which it may obtain title in the collection of its  
11 debts or that was formerly used as a part of the bank  
12 premises, but title to any real estate except as herein  
13 permitted shall not be retained by the bank, either directly  
14 or by or through a subsidiary, as permitted by subsection  
15 (12) of this Section for a total period of more than 10 years  
16 after acquiring title, either directly or indirectly.

17 (10) To do any act, including the acquisition of stock,  
18 necessary to obtain insurance of its deposits, or part  
19 thereof, and any act necessary to obtain a guaranty, in whole  
20 or in part, of any of its loans or investments by the United  
21 States or any agency thereof, and any act necessary to sell  
22 or otherwise dispose of any of its loans or investments to  
23 the United States or any agency thereof, and to acquire and  
24 hold membership in the Federal Reserve System.

25 (11) Notwithstanding any other provisions of this Act or  
26 any other law, to do any act and to own, possess, and carry  
27 as assets property of the character, including stock, that is  
28 at the time authorized or permitted to national banks by an  
29 Act of Congress, but subject always to the same limitations  
30 and restrictions as are applicable to national banks by the  
31 pertinent federal law and subject to applicable provisions of  
32 the Financial Institutions Insurance Sales Law.

33 (12) To own, possess, and carry as assets stock of one  
34 or more corporations that is, or are, engaged in one or more

1 of the following businesses:

2 (a) holding title to and administering assets  
3 acquired as a result of the collection or liquidating of  
4 loans, investments, or discounts; or

5 (b) holding title to and administering personal  
6 property acquired by the bank, directly or indirectly  
7 through a subsidiary, for the purpose of leasing to  
8 others, provided the lease or leases and the investment  
9 of the bank, directly or through a subsidiary, in that  
10 personal property otherwise comply with Section 35.1 of  
11 this Act; or

12 (c) carrying on or administering any of the  
13 activities excepting the receipt of deposits or the  
14 payment of checks or other orders for the payment of  
15 money in which a bank may engage in carrying on its  
16 general banking business; provided, however, that nothing  
17 contained in this paragraph (c) shall be deemed to permit  
18 a bank organized under this Act or subject hereto to do,  
19 either directly or indirectly through any subsidiary, any  
20 act, including the making of any loan or investment, or  
21 to own, possess, or carry as assets any property that if  
22 done by or owned, possessed, or carried by the State bank  
23 would be in violation of or prohibited by any provision  
24 of this Act.

25 The provisions of this subsection (12) shall not apply to  
26 and shall not be deemed to limit the powers of a State bank  
27 with respect to the ownership, possession, and carrying of  
28 stock that a State bank is permitted to own, possess, or  
29 carry under this Act.

30 Any bank intending to establish a subsidiary under this  
31 subsection (12) shall give written notice to the Commissioner  
32 60 days prior to the subsidiary's commencing of business or,  
33 as the case may be, prior to acquiring stock in a corporation  
34 that has already commenced business. After receiving the

1 notice, the Commissioner may waive or reduce the balance of  
2 the 60 day notice period. The Commissioner may specify the  
3 form of the notice and may promulgate rules and regulations  
4 to administer this subsection (12).

5 (13) To accept for payment at a future date not  
6 exceeding one year from the date of acceptance, drafts drawn  
7 upon it by its customers; and to issue, advise, or confirm  
8 letters of credit authorizing the holders thereof to draw  
9 drafts upon it or its correspondents.

10 (14) To own and lease personal property acquired by the  
11 bank at the request of a prospective lessee and upon the  
12 agreement of that person to lease the personal property  
13 provided that the lease, the agreement with respect thereto,  
14 and the amount of the investment of the bank in the property  
15 comply with Section 35.1 of this Act.

16 (15) (a) To establish and maintain, in addition to the  
17 main banking premises, branches offering any banking  
18 services permitted at the main banking premises of a  
19 State bank.

20 (b) To establish and maintain, after May 31, 1997,  
21 branches in another state that may conduct any activity  
22 in that state that is authorized or permitted for any  
23 bank that has a banking charter issued by that state,  
24 subject to the same limitations and restrictions that are  
25 applicable to banks chartered by that state.

26 (16) (Blank).

27 (17) To establish and maintain terminals, as authorized  
28 by the Electronic Fund Transfer Act.

29 (18) To establish and maintain temporary service booths  
30 at any International Fair held in this State which is  
31 approved by the United States Department of Commerce, for the  
32 duration of the international fair for the sole purpose of  
33 providing a convenient place for foreign trade customers at  
34 the fair to exchange their home countries' currency into

1 United States currency or the converse. This power shall not  
2 be construed as establishing a new place or change of  
3 location for the bank providing the service booth.

4 (19) To indemnify its officers, directors, employees,  
5 and agents, as authorized for corporations under Section 8.75  
6 of the Business Corporation Act of 1983.

7 (20) To own, possess, and carry as assets stock of, or  
8 be or become a member of, any corporation, mutual company,  
9 association, trust, or other entity formed exclusively for  
10 the purpose of providing directors' and officers' liability  
11 and bankers' blanket bond insurance or reinsurance to and for  
12 the benefit of the stockholders, members, or beneficiaries,  
13 or their assets or businesses, or their officers, directors,  
14 employees, or agents, and not to or for the benefit of any  
15 other person or entity or the public generally.

16 (21) To make debt or equity investments in corporations  
17 or projects, whether for profit or not for profit, designed  
18 to promote the development of the community and its welfare,  
19 provided that the aggregate investment in all of these  
20 corporations and in all of these projects does not exceed 10%  
21 of the unimpaired capital and unimpaired surplus of the bank  
22 and provided that this limitation shall not apply to  
23 creditworthy loans by the bank to those corporations or  
24 projects. Upon written application to the Commissioner, a  
25 bank may make an investment that would, when aggregated with  
26 all other such investments, exceed 10% of the unimpaired  
27 capital and unimpaired surplus of the bank. The Commissioner  
28 may approve the investment if he is of the opinion and finds  
29 that the proposed investment will not have a material adverse  
30 effect on the safety and soundness of the bank.

31 (22) To own, possess, and carry as assets the stock of a  
32 corporation engaged in the ownership or operation of a travel  
33 agency or to operate a travel agency as a part of its  
34 business.

1 (23) With respect to affiliate facilities:

2 (a) to conduct at affiliate facilities for and on  
3 behalf of another commonly owned bank, if so authorized  
4 by the other bank, all transactions that the other bank  
5 is authorized or permitted to perform; and

6 (b) to authorize a commonly owned bank to conduct  
7 for and on behalf of it any of the transactions it is  
8 authorized or permitted to perform at one or more  
9 affiliate facilities.

10 Any bank intending to conduct or to authorize a commonly  
11 owned bank to conduct at an affiliate facility any of the  
12 transactions specified in this paragraph (23) shall give  
13 written notice to the Commissioner at least 30 days before  
14 any such transaction is conducted at the affiliate facility.

15 (24) To act as the agent for any fire, life, or other  
16 insurance company authorized by the State of Illinois, by  
17 soliciting and selling insurance and collecting premiums on  
18 policies issued by such company; and to receive for services  
19 so rendered such fees or commissions as may be agreed upon  
20 between the bank and the insurance company for which it may  
21 act as agent; provided, however, that no such bank shall in  
22 any case assume or guarantee the payment of any premium on  
23 insurance policies issued through its agency by its  
24 principal; and provided further, that the bank shall not  
25 guarantee the truth of any statement made by an assured in  
26 filing his application for insurance.

27 (25) Notwithstanding any other provisions of this Act or  
28 any other law, to offer any product or service that is at the  
29 time authorized or permitted to any insured savings  
30 association or out-of-state bank by applicable law, provided  
31 that powers conferred only by this subsection (25):

32 (a) shall always be subject to the same limitations  
33 and restrictions that are applicable to the insured  
34 savings association or out-of-state bank for the product

1 or service by such applicable law;

2 (b) shall be subject to applicable provisions of  
3 the Financial Institutions Insurance Sales Law;

4 (c) shall not include the right to own or conduct a  
5 real estate brokerage business for which a license would  
6 be required under the laws of this State; and

7 (d) shall not be construed to include the  
8 establishment or maintenance of a branch, nor shall they  
9 be construed to limit the establishment or maintenance of  
10 a branch pursuant to subsection (11).

11 Not less than 30 days before engaging in any activity  
12 under the authority of this subsection, a bank shall provide  
13 written notice to the Commissioner of its intent to engage in  
14 the activity. The notice shall indicate the specific federal  
15 or state law, rule, regulation, or interpretation the bank  
16 intends to use as authority to engage in the activity.

17 (Source: P.A. 91-330, eff. 7-29-99; 91-849, eff. 6-22-00;  
18 92-483, eff. 8-23-01.)

19 (205 ILCS 5/18) (from Ch. 17, par. 325)

20 Sec. 18. Change in control.

21 (a) Before a change may occur in the ownership of  
22 outstanding stock of any State bank, whether by sale and  
23 purchase, gift, bequest or inheritance, or any other means,  
24 including the acquisition of stock of the State bank by any  
25 bank holding company, which will result in control or a  
26 change in the control of the bank or before a change in the  
27 control of a holding company having control of the  
28 outstanding stock of a State bank whether by sale and  
29 purchase, gift, bequest or inheritance, or any other means,  
30 including the acquisition of stock of such holding company by  
31 any other bank holding company, which will result in control  
32 or a change in control of the bank or holding company, or  
33 before a transfer of substantially all the assets or

1 liabilities of the State bank, the Commissioner shall be of  
2 the opinion and find:

3 (1) that the general character of proposed  
4 management or of the person desiring to purchase  
5 substantially all the assets or to assume substantially  
6 all the liabilities of the State bank, after the change  
7 in control, is such as to assure reasonable promise of  
8 successful, safe and sound operation;

9 (1.1) that depositors' interests will not be  
10 jeopardized by the purchase or assumption and that  
11 adequate provision has been made for all liabilities as  
12 required for a voluntary liquidation under Section 68 of  
13 this Act;

14 (2) that the future earnings prospects of the  
15 person desiring to purchase substantially all assets or  
16 to assume substantially all the liabilities of the State  
17 bank, after the proposed change in control, are  
18 favorable;

19 (3) that any prior involvement by the persons  
20 proposing to obtain control, to purchase substantially  
21 all the assets, or to assume substantially all the  
22 liabilities of the State bank or by the proposed  
23 management personnel with any other financial  
24 institution, whether as stockholder, director, officer or  
25 customer, was conducted in a safe and sound manner; and

26 (4) that if the acquisition is being made by a bank  
27 holding company, the acquisition is authorized under the  
28 Illinois Bank Holding Company Act of 1957.

29 (b) Persons desiring to purchase control of an existing  
30 state bank, to purchase substantially all the assets, or to  
31 assume substantially all the liabilities of the State bank  
32 shall, prior to that purchase, submit to the Commissioner:

33 (1) a statement of financial worth;

34 (2) satisfactory evidence that any prior

1 involvement by the persons and the proposed management  
2 personnel with any other financial institution, whether  
3 as stockholder, director, officer or customer, was  
4 conducted in a safe and sound manner; and

5 (3) such other relevant information as the  
6 Commissioner may request to substantiate the findings  
7 under subsection (a) of this Section.

8 A person who has submitted information to the  
9 Commissioner pursuant to this subsection (b) is under a  
10 continuing obligation until the Commissioner takes action on  
11 the application to immediately supplement that information if  
12 there are any material changes in the information previously  
13 furnished or if there are any material changes in any  
14 circumstances that may affect the Commissioner's opinion and  
15 findings. In addition, a person submitting information under  
16 this subsection shall notify the Commissioner of the date  
17 when the change in control is finally effected.

18 The Commissioner may impose such terms and conditions on  
19 the approval of the change in control application as he deems  
20 necessary or appropriate.

21 If an applicant, whose application for a change in  
22 control has been approved pursuant to subsection (a) of this  
23 Section, fails to effect the change in control within 180  
24 days after the date of the Commissioner's approval, the  
25 Commissioner shall revoke that approval unless a request has  
26 been submitted, in writing, to the Commissioner for an  
27 extension and the request has been approved.

28 (b-1) Any person who obtains ownership of stock of an  
29 existing State bank or stock of a holding company that  
30 controls the State bank by gift, bequest, or inheritance such  
31 that ownership of the stock would constitute control of the  
32 State bank or holding company may obtain title and ownership  
33 of the stock, but may not exercise management or control of  
34 the business and affairs of the bank or vote his or her

1 shares so as to exercise management or control unless and  
2 until the Commissioner approves an application for the change  
3 of control as provided in subsection (b) of this Section.

4 (c) Whenever a state bank makes a loan or loans,  
5 secured, or to be secured, by 25% or more of the outstanding  
6 stock of a state bank, the president or other chief executive  
7 officer of the lending bank shall promptly report such fact  
8 to the Commissioner upon obtaining knowledge of such loan or  
9 loans, except that no report need be made in those cases  
10 where the borrower has been the owner of record of the stock  
11 for a period of one year or more, or the stock is that of a  
12 newly organized bank prior to its opening.

13 (d) The reports required by subsections (b) and (c) of  
14 this Section 18, other than those relating to a transfer of  
15 assets or assumption of liabilities, shall contain the  
16 following information to the extent that it is known by the  
17 person making the report: (1) the number of shares involved;  
18 (2) the names of the sellers (or transferors); (3) the names  
19 of the purchasers (or transferees); (4) the names of the  
20 beneficial owners if the shares are registered in another  
21 name: (5) the purchase price, if applicable; (6) the total  
22 number of shares owned by the sellers (or transferors), the  
23 purchasers (or transferees) and the beneficial owners both  
24 immediately before and after the transaction; and, (7) in the  
25 case of a loan, the name of the borrower, the amount of the  
26 loan, the name of the bank issuing the stock securing the  
27 loan and the number of shares securing the loan. In addition  
28 to the foregoing, such reports shall contain such other  
29 information which is requested by the Commissioner to inform  
30 the Commissioner of the effect of the transaction upon  
31 control of the bank whose stock is involved.

32 (d-1) The reports required by subsection (b) of this  
33 Section 18 that relate to purchase of assets and assumption  
34 of liabilities shall contain the following information to the

1 extent that it is known by the person making the report: (1)  
2 the value, amount, and description of the assets transferred;  
3 (2) the amount, type, and to whom each type of liabilities  
4 are owed; (3) the names of the purchasers (or transferees);  
5 (4) the names of the beneficial owners if the shares of a  
6 purchaser or transferee are registered in another name; (5)  
7 the purchase price, if applicable; and, (6) in the case of a  
8 loan obtained to effect a purchase, the name of the borrower,  
9 the amount and terms of the loan, and the description of the  
10 assets securing the loan. In addition to the foregoing,  
11 these reports shall contain any other information that is  
12 requested by the Commissioner to inform the Commissioner of  
13 the effect of the transaction upon the bank from which assets  
14 are purchased or liabilities are transferred.

15 (e) Whenever such a change as described in subsection  
16 (a) of this Section 18 occurs, each state bank shall report  
17 promptly to the Commissioner any changes or replacement of  
18 its chief executive officer or of any director occurring in  
19 the next 12 month period, including in its report a statement  
20 of the past and current business and professional  
21 affiliations of the new chief executive officer or directors.

22 (f) (Blank).

23 (g) (1) Except as otherwise expressly provided in this  
24 subsection (g), the Commissioners shall not approve an  
25 application for a change in control if upon consummation  
26 of the change in control the persons applying for the  
27 change in control, including any affiliates of the  
28 persons applying, would control 30% or more of the total  
29 amount of deposits which are located in this State at  
30 insured depository institutions. For purposes of this  
31 subsection (g), the words "insured depository  
32 institution" shall mean State banks, national banks, and  
33 insured savings associations. For purposes of this  
34 subsection (g), the word "deposits" shall have the

1 meaning ascribed to that word in Section 3(1) of the  
 2 Federal Deposit Insurance Act. For purposes of this  
 3 subsection (g), the total amount of deposits which are  
 4 considered to be located in this State at insured  
 5 depository institutions shall equal the sum of all  
 6 deposits held at the main banking premises and branches  
 7 in the State of Illinois of State banks, national banks,  
 8 or insured savings associations. For purposes of this  
 9 subsection (g), the word "affiliates" shall have the  
 10 meaning ascribed to that word in Section 35.2 of this  
 11 Act.

12 (2) Notwithstanding the provisions of subsection  
 13 (g)(1) of this Section, the Commissioner may approve an  
 14 application for a change in control for a bank that is in  
 15 default or in danger of default. Except in those  
 16 instances in which an application for a change in control  
 17 is for a bank that is in default or in danger of default,  
 18 the Commissioner may not approve a change in control  
 19 which does not meet the requirements of subsection (g)(1)  
 20 of this Section. The Commissioner may not waive the  
 21 provisions of subsection (g)(1) of this Section, whether  
 22 pursuant to Section 3(d) of the federal Bank Holding  
 23 Company Act of 1956 or Section 44(d) of the Federal  
 24 Deposit Insurance Act, except as expressly provided in  
 25 this subsection (g)(2).

26 (h) As used in this Section, the term "control" means  
 27 the power, directly or indirectly, to direct the management  
 28 or policies of the bank or to vote 25% or more of the  
 29 outstanding stock of the bank. ~~the--ownership--of--such--amount~~  
 30 ~~of--stock--or--ability--to--direct--the--voting--of--such--stock--as--to,~~  
 31 ~~directly--or--indirectly,--give--power--to--direct--or--cause--the~~  
 32 ~~direction--of--the--management--or--policies--of--the--bank.--A~~  
 33 ~~change--in--ownership--of--stock--that--would--result--in--direct--or~~  
 34 ~~indirect--ownership--by--a--stockholder,--an--affiliated--group--of~~

1 stockholders, or a holding company of less than 10% of the  
2 outstanding stock shall not be considered a change in  
3 control. A change in ownership of stock that would result in  
4 direct or indirect ownership by a stockholder, an affiliated  
5 group of stockholders, or a holding company of 20% or such  
6 lesser amount that would entitle the holder by applying  
7 cumulative voting to elect one director shall be presumed to  
8 constitute a change of control for purposes of this Section  
9 18. If there is any question as to whether a change in the  
10 ownership or control of the outstanding stock is sufficient  
11 to result in obtaining control thereof or to effect a change  
12 in the control application should be filed thereof, the  
13 question shall be resolved in favor of filing the application  
14 with reporting the facts to the Commissioner.

15 As used in this Section, "substantially all" the assets  
16 or liabilities of a State bank means that portion of the  
17 assets or liabilities of a State bank such that their  
18 purchase or transfer will materially impair the ability of  
19 the State bank to continue successful, safe, and sound  
20 operations or to continue as a going concern or would cause  
21 the bank to lose its federal deposit insurance.

22 As used in this Section, "purchase" includes a transfer  
23 by gift, bequest, inheritance, or any other means.

24 (Source: P.A. 92-483, eff. 8-23-01.)

25 (205 ILCS 5/46) (from Ch. 17, par. 357)

26 Sec. 46. Misleading practices and names prohibited;  
27 penalty.

28 (a) No person, firm, partnership, or corporation that is  
29 not a bank shall transact business in this State in a manner  
30 which has a substantial likelihood of misleading the public  
31 by implying that the business is a bank, or shall use the  
32 word "bank", "banker", or "banking" in connection with the  
33 business. Any person, firm, partnership or corporation

1 violating this Section shall be deemed guilty of a Class A  
2 misdemeanor, and the Attorney General or State's Attorney of  
3 the county in which any such violation occurs may restrain  
4 such violation by a complaint for injunctive relief.

5 (b) If the Commissioner is of the opinion and finds that  
6 a person, firm, partnership, or corporation that is not a  
7 bank has transacted or intends to transact business in this  
8 State in a manner which has a substantial likelihood of  
9 misleading the public by implying that the business is a  
10 bank, or has used or intends to use the word "bank",  
11 "banker", or "banking" in connection with the business, then  
12 the Commissioner may direct that person, firm, partnership,  
13 or corporation to cease and desist from transacting the  
14 business or using the word "bank", "banker", or "banking".  
15 If that person, firm, partnership, or corporation persists in  
16 transacting the business or using the word "bank", "banker",  
17 or "banking", then the Commissioner may impose a civil  
18 penalty of up to \$10,000 for each violation. Each day that  
19 the person, firm, partnership, or corporation continues  
20 transacting the business or using the word "bank", "banker",  
21 or "banking" in connection with the business shall constitute  
22 a separate violation of these provisions.

23 (c) A person, firm, partnership, or corporation that is  
24 not a bank, and is not transacting or intending to transact  
25 business in this State in a manner that has a substantial  
26 likelihood of misleading the public by implying that such  
27 business is a bank, may apply to the Commissioner for  
28 permission to use the word "bank", "banker", or "banking" in  
29 connection with the business. If the Commissioner determines  
30 that there is no substantial likelihood of misleading the  
31 public, and upon such conditions as the Commissioner may  
32 impose to prevent the person, firm, partnership, or  
33 corporation from holding itself out in a misleading manner,  
34 then such person, firm, partnership, or corporation may use

1 the word "bank", "banker", or "banking".

2 (d) (1) Unless otherwise expressly permitted by  
3 law, no person, firm, partnership, or corporation may use  
4 the name of an existing bank, ~~or a name deceptively~~  
5 ~~similar to that of an existing bank~~, when marketing to or  
6 soliciting business from customers or prospective  
7 customers if the reference to the existing bank is made  
8 (i) without the consent of the existing bank and (ii) ~~in~~  
9 ~~a manner that could cause a reasonable person to believe~~  
10 ~~that the marketing material or solicitation originated~~  
11 ~~from or is endorsed by the existing bank or that the~~  
12 ~~existing bank is in any other way responsible for the~~  
13 ~~marketing material or solicitation.~~

14 (1.5) Unless otherwise expressly permitted by law,  
15 no person, firm, partnership, or corporation may use a  
16 name similar to that of an existing bank when marketing  
17 to or soliciting business from customers or prospective  
18 customers if the similar name is used in a manner that  
19 could cause a reasonable person to believe that the  
20 marketing material or solicitation originated from or is  
21 endorsed by the existing bank or that the existing bank  
22 is in any other way responsible for the marketing  
23 material or solicitation.

24 (2) An existing bank may, in addition to any other  
25 remedies available under the law, report an alleged  
26 violation of this subsection (d) to the Commissioner. If  
27 the Commissioner finds the marketing material or  
28 solicitation in question to be in violation of this  
29 subsection, the Commissioner may direct the person, firm,  
30 partnership, or corporation to cease and desist from  
31 using that marketing material or solicitation in  
32 Illinois. If that person, firm, partnership, or  
33 corporation persists in the use of the marketing material  
34 or solicitation, then the Commissioner may impose a civil

1 penalty of up to \$10,000 for each violation. Each  
 2 instance in which the marketing material or solicitation  
 3 is sent to a customer or prospective customer shall  
 4 constitute a separate violation of these provisions. The  
 5 Commissioner is authorized to promulgate rules to  
 6 administer these provisions.

7 (3) (Blank) Nothing---in---this---subsection---(d)  
 8 prohibits--the--use--of--or--reference--to--the--name--of--an  
 9 existing-bank-in-marketing--materials--or--solicitations,  
 10 provided--that--the--use--or--reference--would--not--deceive--or  
 11 confuse--a--reasonable--person--regarding---whether---the  
 12 marketing-material-or-solicitation-originated-from-or-was  
 13 endorsed--by--the--existing--bank-or-whether-the-existing  
 14 bank-was-in-any-other-way-responsible-for--the--marketing  
 15 material-or-solicitation.--The-Commissioner-is-authorized  
 16 to-promulgate-rules-to-administer-these-provisions.

17 (Source: P.A. 92-476, eff. 8-23-01.)

18 (205 ILCS 5/48.4)

19 Sec. 48.4. Administrative liens for past-due child  
 20 support. Any bank governed by this Act shall encumber or  
 21 surrender accounts or assets held by the bank on behalf of  
 22 any responsible relative who is subject to a child support  
 23 lien, upon notice of the lien or levy of the Illinois  
 24 Department of Public Aid or its successor agency pursuant to  
 25 Section 10-25.5 of the Illinois Public Aid Code, or upon  
 26 notice of interstate lien or levy from any other state's  
 27 agency responsible for implementing the child support  
 28 enforcement program set forth in Title IV, Part D of the  
 29 Social Security Act.

30 (Source: P.A. 90-18, eff. 7-1-97; 90-655, eff. 7-30-98.)

31 Section 15. The Illinois Savings and Loan Act of 1985 is  
 32 amended by changing Section 1-6d as follows:

1 (205 ILCS 105/1-6d)

2 Sec. 1-6d. Administrative liens for past-due child  
3 support. Any association governed by this Act shall encumber  
4 or surrender accounts or assets held by the association on  
5 behalf of any responsible relative who is subject to a child  
6 support lien, upon notice of the lien or levy of the Illinois  
7 Department of Public Aid or its successor agency pursuant to  
8 Section 10-25.5 of the Illinois Public Aid Code, or upon  
9 notice of interstate lien or levy from any other state's  
10 agency responsible for implementing the child support  
11 enforcement program set forth in Title IV, Part D of the  
12 Social Security Act.

13 (Source: P.A. 90-18, eff. 7-1-97.)

14 Section 20. The Savings Bank Act is amended by changing  
15 Sections 7007 and 8015 as follows:

16 (205 ILCS 205/7007)

17 Sec. 7007. Administrative liens for past-due child  
18 support. Any savings bank governed by this Act shall  
19 encumber or surrender accounts or assets held by the savings  
20 bank on behalf of any responsible relative who is subject to  
21 a child support lien, upon notice of the lien or levy of the  
22 Illinois Department of Public Aid or its successor agency  
23 pursuant to Section 10-25.5 of the Illinois Public Aid Code,  
24 or upon notice of interstate lien or levy from any other  
25 state's agency responsible for implementing the child support  
26 enforcement program set forth in Title IV, Part D of the  
27 Social Security Act.

28 (Source: P.A. 90-18, eff. 7-1-97.)

29 (205 ILCS 205/8015) (from Ch. 17, par. 7308-15)

30 Sec. 8015. Change in control.

31 (a) Any person, whether acting directly or indirectly or

1 through or in concert with one or more persons, shall give  
 2 the Commissioner 60 days written notice of intent to acquire  
 3 control of a savings bank or savings bank affiliate operating  
 4 under this Act. The Commissioner shall promulgate rules to  
 5 implement this provision including definitions, application,  
 6 procedures, standards for approval or disapproval.

7 (b) The Commissioner may examine the books and records  
 8 of any person giving notice of intent to acquire control of a  
 9 savings bank operating under this Act.

10 (c) The Commissioner may approve or disapprove an  
 11 application for change of control. ~~In--either-case, the~~  
 12 ~~decision-must-be-issued-within-30-days-of-the-filing--of--the~~  
 13 ~~initial--application-or-the-date-of-receipt-of-any-additional~~  
 14 ~~information-requested-by-the-Commissioner-that--is--necessary~~  
 15 ~~for--his--decision--to--be--made.--The-request-for-additional~~  
 16 ~~information-must-be-made-within-20-days-of-the-filing-of--the~~  
 17 ~~initial-application.~~

18 (Source: P.A. 92-483, eff. 8-23-01.)

19 Section 25. The Consumer Deposit Account Act is amended  
 20 by adding Section 3.5 as follows:

21 (205 ILCS 605/3.5 new)

22 Sec. 3.5. Notification to consumer of invalidated  
 23 routing number. At least 30 days before a financial  
 24 institution invalidates a routing number on a consumer  
 25 deposit account, whether as a result of a merger, purchase  
 26 and acquisition, or other transaction, the institution shall  
 27 send a notice to each affected consumer deposit account  
 28 holder advising the holder of the invalidation and the effect  
 29 it will have on the account. The notice shall include, but  
 30 shall not be limited to, the following information: the date  
 31 on which the routing number will no longer be effective;  
 32 procedures necessary to ensure that electronic funds

1 transfers, including direct deposits, are processed  
2 correctly; and information on ordering new checks, debit  
3 cards, and similar items.

4 Section 30. The Electronic Fund Transfer Act is amended  
5 by changing Sections 20 and 45 as follows:

6 (205 ILCS 616/20)

7 Sec. 20. Powers and duties of Commissioner. The  
8 Commissioner shall have the following powers and duties:

9 (1) to promulgate reasonable rules in accordance with  
10 the Illinois Administrative Procedure Act for the  
11 administration of this Act;

12 (2) to issue orders for the enforcement of this Act and  
13 any rule promulgated under this Act;

14 (3) to appoint hearing officers ~~or--arbitrators~~ to  
15 exercise any delegated powers;

16 (4) to subpoena witnesses, compel their attendance,  
17 administer oaths, examine any person under oath, and require  
18 the production of any relevant books, papers, accounts, and  
19 documents in the course of and pursuant to any investigation  
20 conducted or action taken by the Commissioner; and

21 (5) to conduct hearings; ~~and~~

22 ~~(6)--to-arbitrate-disputes-as-provided-in-subsection--(c)~~  
23 ~~of-Section-45-of-this-Act.~~

24 (Source: P.A. 89-310, eff. 1-1-96.)

25 (205 ILCS 616/45)

26 Sec. 45. Nondiscriminatory access.

27 (a) Subject to the provisions of Section 35 of this Act,  
28 use of a terminal through access to a switch and use of any  
29 switch shall be available on a nondiscriminatory basis to any  
30 switch or financial institution that has its principal place  
31 of business within this State. The terms and conditions of

1 use shall be governed by a written agreement between the  
 2 network and the financial institution or other switch  
 3 obtaining the use. The written agreement shall specify all  
 4 of the terms and conditions under which the network may be  
 5 utilized, including commercially reasonable fees and charges.  
 6 ~~In--case--of--a--dispute--under--the--terms--of--the--written~~  
 7 ~~agreement, the parties shall be deemed to have agreed to~~  
 8 ~~accept the Commissioner as final arbitrator unless the~~  
 9 ~~aggrieved party seeks court action.~~

10 (b) The use and operation of each terminal served by a  
 11 switch shall be governed by a written agreement between the  
 12 network and the person establishing the terminal. The  
 13 written agreement shall specify all the terms and conditions  
 14 under which the network provides service to the terminal,  
 15 including commercially reasonable fees and charges. ~~In--case~~  
 16 ~~of--a--dispute--under--the--terms--of--the--written--agreement, the~~  
 17 ~~parties--shall--be--deemed--to--have--agreed--to--accept--the~~  
 18 ~~Commissioner--as--final--arbitrator--unless--the--aggrieved--party~~  
 19 ~~seeks--court--action.~~

20 (c) (Blank). ~~The--Commissioner--shall--have--the--power--to~~  
 21 ~~arbitrate--disputes--arising--under--(1)--contracts, in--accordance~~  
 22 ~~with--the--terms--of--those--contracts, governing--the--use,~~  
 23 ~~operation, and--access--to--switches--and--terminals, and--(2)--the~~  
 24 ~~use, operation, and--access--to--switches--and--terminals. Any~~  
 25 ~~decision--by--the--Commissioner--in--connection--with--any~~  
 26 ~~arbitration--shall--be--determined--only--after--an--opportunity--for~~  
 27 ~~a--hearing--and--shall--be--subject--to--judicial--review--pursuant--to~~  
 28 ~~the--provisions--of--the--Administrative--Review--Law--and--the--rules~~  
 29 ~~adopted--pursuant--to--that--Law. Anything--to--the--contrary--in~~  
 30 ~~this--Act--notwithstanding, any--right--of--arbitration--granted~~  
 31 ~~under--this--Act--is--subject--to--the--right--of--either--party--to~~  
 32 ~~seek--court--action.~~

33 (Source: P.A. 89-310, eff. 1-1-96.)

1 Section 35. The Corporate Fiduciary Act is amended by  
2 changing Sections 3-2, 4A-15, and 5-2 as follows:

3 (205 ILCS 620/3-2) (from Ch. 17, par. 1553-2)

4 Sec. 3-2. Change in control.

5 (a) Before a change may occur in the ownership of  
6 outstanding stock or membership interests of any trust  
7 company whether by sale and purchase, gift, bequest or  
8 inheritance, or any other means, which will result in control  
9 or a change in the control of the trust company or before a  
10 change in the control of a holding company having control of  
11 the outstanding stock or membership interests of a trust  
12 company whether by sale and purchase, gift, bequest or  
13 inheritance, or any other means, which will result in control  
14 or a change in control of the trust company or holding  
15 company, the Commissioner shall be of the opinion and find:

16 (1) that the general character of its proposed  
17 management, after the change in control, is such as to  
18 assure reasonable promise of competent, successful, safe  
19 and sound operation;

20 (2) that the future earnings prospects, after the  
21 proposed change in control, are favorable; and

22 (3) that the prior business affairs of the persons  
23 proposing to obtain control or by the proposed management  
24 personnel, whether as stockholder, director, member,  
25 officer, or customer, were conducted in a safe, sound,  
26 and lawful manner.

27 (b) Persons desiring to purchase control of an existing  
28 trust company and persons obtaining control by gift, bequest  
29 or inheritance, or any other means shall submit to the  
30 Commissioner:

31 (1) a statement of financial worth; and

32 (2) satisfactory evidence that the prior business  
33 affairs of the persons and the proposed management

1 personnel, whether as stockholder, director, officer, or  
2 customer, were conducted in a safe, sound, and lawful  
3 manner.

4 (c) Whenever a bank makes a loan or loans, secured, or  
5 to be secured, by 25% or more of the outstanding stock of a  
6 trust company, the president or other chief executive officer  
7 of the lending bank shall promptly report such fact to the  
8 Commissioner upon obtaining knowledge of such loan or loans,  
9 except that no report need be made in those cases where the  
10 borrower has been the owner of record of the stock for a  
11 period of one year or more, or the stock is that of a  
12 newly-organized trust company prior to its opening.

13 (d) (1) Before a purchase of substantially all the  
14 assets and an assumption of substantially all the liabilities  
15 of a trust company or before a purchase of substantially all  
16 the trust assets and an assumption of substantially all the  
17 trust liabilities of a trust company, the Commissioner shall  
18 be of the opinion and find:

19 (i) that the general character of the acquirer's  
20 proposed management, after the transfer, is such as to  
21 assure reasonable promise of competent, successful, safe,  
22 and sound operation;

23 (ii) that the acquirer's future earnings prospects,  
24 after the proposed transfer, are favorable;

25 (iii) that any prior involvement by the acquirer or  
26 by the proposed management personnel, whether as  
27 stockholder, director, officer, agent, or customer, was  
28 conducted in a safe, sound, and lawful manner;

29 (iv) that customers' interests will not be  
30 jeopardized by the purchase and assumption; and

31 (v) that adequate provision has been made for all  
32 obligations and trusts as required under Section 7-1 of  
33 this Act.

34 (2) Persons desiring to purchase substantially all the

1 assets and assume substantially all the liabilities of a  
2 trust company or to purchase substantially all the trust  
3 assets and assume substantially all the trust liabilities of  
4 a trust company shall submit to the Commissioner:

5 (i) a statement of financial worth; and

6 (ii) satisfactory evidence that the prior business  
7 affairs of the persons and the proposed management  
8 personnel, whether as stockholder, director, officer, or  
9 customer, were conducted in a safe, sound, and lawful  
10 manner.

11 (e) The reports required by subsections (a),(b), (c),  
12 and (d) of this Section 3-2 shall contain the following  
13 information to the extent that it is known by the person  
14 making the report: (1) the number of shares involved; (2) the  
15 names of the sellers (or transferors); (3) the names of the  
16 purchasers (or transferees); (4) the names of the beneficial  
17 owners if the shares are registered in another name; (5) the  
18 purchase price; (6) the total number of shares owned by the  
19 sellers (or transferors), the purchasers (or transferees) and  
20 the beneficial owners both immediately before and after the  
21 transaction; and, (7) in the case of a loan, the name of the  
22 borrower, the amount of the loan, and the name of the trust  
23 company issuing the stock securing the loan and the number of  
24 shares securing the loan. In addition to the foregoing, such  
25 reports shall contain such other information as may be  
26 available and which is requested by the Commissioner to  
27 inform the Commissioner of the effect of the transaction upon  
28 the trust company or trust companies whose stock or assets  
29 and liabilities are involved.

30 (f) Whenever such a change as described in subsection  
31 (a) of this Section 3-2 occurs, each trust company shall  
32 report promptly to the Commissioner any changes or  
33 replacement of its chief executive officer or of any director  
34 occurring in the next 12 month period, including in its

1 report a statement of the past and current business and  
2 professional affiliations of the new chief executive officer  
3 or directors.

4 (g) The provisions of this Section do not apply when the  
5 change in control is the result of organizational  
6 restructuring under a holding company.

7 (h) As used in this Section, the term "control" means  
8 the power, directly or indirectly, to direct the management  
9 or policies of the trust company or to vote 25% or more of  
10 the outstanding stock of the trust company. ownership-of-such  
11 amount-of-stock-or-membership-interests-or-ability-to-direct  
12 the-voting-of-such-stock-or-membership-interests-as-to,  
13 directly-or-indirectly, give power to-direct-or-cause-the  
14 direction-of-the-management-or-policies-of-the-trust  
15 company.--A change-in-ownership-of-stock-that-would-result-in  
16 direct-or-indirect-ownership-by-a-stockholder-or-member,--an  
17 affiliated--group--of--stockholders--or-members,--or-a holding  
18 company--of--less--than--10%--of--the--outstanding--stock--or  
19 membership--interests--shall-not-be--considered--a--change-of  
20 control.--A--change--in--ownership--of--stock--or--membership  
21 interests--that-would-result-in-direct-or-indirect--ownership  
22 by--a--stockholder--or--member,--an--affiliated--group--of  
23 stockholders--or-members,--or-a holding company-of-20%--or-such  
24 lesser-amount-which-would--entitle--the--holder--by--applying  
25 cumulative--voting-to-elect-one-director-shall-be-presumed-to  
26 constitute-a-change-of-control-for-purposes-of-this--Section.  
27 If there is any question as to whether a change in the  
28 ownership-or-control-of-the-outstanding-stock--or--membership  
29 interests--is--sufficient--to--result--in--obtaining--control  
30 thereof--or--to--effect--a--change-in-the control application  
31 should be filed thereof, the question shall be resolved in  
32 favor of filing the application with reporting-the-facts-to  
33 the Commissioner.

34 As used in this Section, "substantially all" the

1 assets or liabilities or the trust assets or trust  
2 liabilities of a trust company means that portion such that  
3 their transfer will materially impair the ability of the  
4 trust company to continue successful, safe, and sound  
5 operations or to continue as a going concern.

6 (Source: P.A. 92-483, eff. 8-23-01.)

7 (205 ILCS 620/4A-15)

8 Sec. 4A-15. Representative offices. A foreign  
9 corporation not conducting fiduciary activities may establish  
10 a representative office under the Foreign Bank Representative  
11 Office Act. At these offices, the foreign corporation may  
12 market and solicit fiduciary services and provide back bank  
13 office and administrative support to the foreign  
14 corporation's fiduciary activities, but it may not engage in  
15 fiduciary activities.

16 (Source: P.A. 92-483, eff. 8-23-01.)

17 (205 ILCS 620/5-2) (from Ch. 17, par. 1555-2)

18 Sec. 5-2. Examinations of corporate fiduciaries.

19 (a) The Commissioner, no less frequently than 18 months  
20 following the preceding examination, and whenever in his  
21 judgment it is necessary or expedient, either personally or  
22 by one or more competent persons appointed by him, shall  
23 visit and examine every corporate fiduciary in this State and  
24 may, to the extent the Commissioner determines necessary,  
25 examine the affairs of the corporate fiduciary's  
26 subsidiaries, affiliates, parent companies and contractual  
27 service providers for fiduciary services of the corporate  
28 fiduciary as shall be necessary to fully disclose the  
29 condition of such subsidiaries, affiliates, parent companies  
30 and contractual service providers and the relation between  
31 the corporate fiduciary and such subsidiaries, affiliates,  
32 parent companies and contractual service providers and the

1 effect of such relations upon the affairs of such corporate  
2 fiduciary. Instead of the Commissioner making the  
3 examination provided by this subsection or appointing a  
4 competent person to do so, the Commissioner may accept on an  
5 alternating basis the examination made by the corporate  
6 fiduciary's appropriate federal regulatory agency, provided  
7 the appropriate federal regulatory agency has made such an  
8 examination. Fiduciary services shall include, but not be  
9 limited to, clerical, accounting, bookkeeping, statistical,  
10 data processing, safekeeping or similar functions for a  
11 corporate fiduciary.

12 (b) The Commissioner and every such examiner may  
13 administer an oath to any person whose testimony is required  
14 on any such examination, and compel the appearance and  
15 attendance of any such person for the purpose of examination,  
16 by summons, subpoena or attachment, in the manner now  
17 authorized in respect to the attendance of persons as  
18 witnesses in the circuit court; and all books and papers  
19 which are necessary to be examined by the Commissioner or  
20 examiner so appointed shall be produced, and their production  
21 may be compelled in like manner.

22 (c) The expense of every examination, if any, shall be  
23 paid by the corporate fiduciary examined, in such amount as  
24 the Commissioner certifies to be just and reasonable.

25 (d) On every examination, inquiry shall be made as to  
26 the condition and resources of the corporate fiduciary  
27 generally, the mode of conducting and managing its affairs,  
28 the action of its directors or trustees, the investments of  
29 its funds, the safety and prudence of its management, the  
30 security afforded to those by whom its engagements are held,  
31 and whether the requirements of its charter and of the laws  
32 have been complied with in the administration of its affairs.  
33 The nature and condition of the assets in or investment of  
34 any bonus, pension, or profit sharing plan for officers or

1 employees of a corporate fiduciary shall be deemed to be  
2 included in the affairs of that corporate fiduciary subject  
3 to examination by the Commissioner.

4 (e) Whenever any corporate fiduciary causes to be  
5 performed, by contract or otherwise, any fiduciary services  
6 for itself, whether on or off its premises:

7 (1) such performance shall be subject to  
8 examination by the Commissioner to the same extent as if  
9 the services were being performed by the corporate  
10 fiduciary itself on its own premises; and

11 (2) the corporate fiduciary shall notify the  
12 Commissioner of the existence of the service  
13 relationship. Such notification shall be submitted  
14 within 30 days after the making of such service contract,  
15 or the performance of the service, whichever occurs  
16 first. The Commissioner shall be notified of each  
17 subsequent contract in the same manner.

18 For purposes of this subsection (e), the term "fiduciary  
19 services" shall include such services as the computation and  
20 posting of interest and other credits and charges;  
21 preparation and mailing of checks, statements, notices and  
22 similar items; clerical, bookkeeping, accounting, statistical  
23 or similar functions; and any other function which the  
24 corporate fiduciary, in the ordinary course of its business,  
25 could have performed itself.

26 Any report of examination pursuant to this Section and  
27 any copies thereof shall be the property of the Commissioner,  
28 confidential and may only be disclosed under the  
29 circumstances set forth in Section 48.3 of the Illinois  
30 Banking Act, as now or hereafter amended.

31 (Source: P.A. 89-364, eff. 8-18-95; 90-301, eff. 8-1-97.)

32 Section 99. Effective date. This Act takes effect upon  
33 becoming law.